

COMMENTS TO LIFT THE BAR ON VISITORS AND IMMIGRANTS LIVING WITH HIV

Docket #CDC-2008-0001

Dear Department of Health and Human Services:

[REDACTED]

My name is [REDACTED] and I am a law student at the University of Oregon. As part of my studies, I am interning for the summer at the Center on Race, Poverty, & the Environment in San Francisco, where I assist communities of color, many of them immigrants, in their struggles to improve their local environments and the health of their families.

I am writing in support of HHS/CDC's proposed rule and to encourage the agency to finalize the rule, published July 2, 2009, that would lift the ban on visitors and immigrants living with HIV/AIDS, remove mandatory HIV testing of immigrants, and restore the U.S. as a global role model and leader in the area of human rights, equal treatment under law, and public health.

The ban on HIV-positive immigrants and travelers excludes individuals who can make positive contributions to the United States and contributes to the stigmatization of people living with HIV and AIDS. It denies the human rights of people living with HIV and AIDS, including the right to equal treatment under the law. The HIV ban has violated the human rights of individuals seeking to travel freely, resulted in countless invasions of personal privacy, and has put additional obstacles in the path of refugees fleeing persecution. The ban has needlessly separated families who are unable or ineligible to navigate the difficult waiver process and has outlawed working professionals and foreign students who simply do not qualify for a waiver. At a time when the United States claims a leading role in fighting the global HIV/AIDS pandemic, the ban undermines its ability to promote basic care and human rights for people living with HIV and AIDS.

For over two decades, the politics of hate, fear, and plain misunderstanding has triumphed over sound medical judgment and the expert opinions of public health professionals. The HIV travel and immigration ban has singled out people living with HIV and AIDS and treated them differently from people with any other medical condition. The HIV ban has also perpetuated unfair stereotypes and misconceptions about HIV transmission. I commend the HHS/CDC for reiterating in its rule what the public should know, but bears repeating: that HIV infection is not transmitted by casual contact – not by air, food, or water, mosquitoes, toilet seats, drinking fountains, doorknobs, eating utensils, drinking glasses, food, pets, shaking hands, hugging, or a casual kiss. The scientific and public health community has long believed that this ban is obsolete and does not protect the public health or prevent the spread of HIV.

We further commend HHS for its decision to end mandatory HIV testing of applicants for lawful permanent residence. HIV testing should not be attached to immigration applications, especially since those who test positive are often not properly counseled and may have their confidentiality violated.

Some critics cite the costs detailed by HHS/CDC in their proposal as a potential concern. But their concerns are misguided. First, the estimated percentage of potential immigrants living with HIV/AIDS is extremely small – less than 1/2 of one percent. Second, as the HHS/CDC explains, the agency is required to estimate total health care costs related to this medical condition as part of

its analysis. But the dollar figures listed are not an estimate of costs to the federal government or the taxpayer – they are simply the total costs of treating a health condition, regardless of who is paying for it. For example, the payer may be private health insurance, contributions by the individual, or by his or her sponsor, family, etc. Additionally, immigrants are already required by law to be financially solvent and by law are not eligible for many public benefits.

Last year, Congress amended the Immigration and Nationality Act to remove the statutory HIV ban. In doing so, it sent a strong message that the United States will no longer countenance this discriminatory law. In this rule, HHS/CDC has taken the next step to implement Congressional intent. We urge HHS/CDC to finalize the proposed rule as quickly as possible and treat people living with HIV and AIDS with the dignity and respect they deserve.

Sincerely,

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